

Small Business Administration

§ 120.1717

or Pool Certificates under the Program if any such Participant or its Associate or Affiliate has:

(1) Failed to comply materially with any requirement imposed by the Program Rules and Regulations or other SBA rules and regulations; or

(2) Made a material false statement or failed to disclose a material fact to SBA.

(b) *Additional rules for suspension or termination of Pool Originator.* In addition to the conditions set forth in paragraph (a) above, SBA may also suspend or terminate the Program participation privileges of a Pool Originator if the Pool Originator (and/or its Associates):

(1) Does not comply with any of the requirements in 120.1703(a) or (c);

(2) Has been revoked or suspended it from engaging in the securities business by its supervisory agency, or is under investigation for a practice which SBA considers, in its sole discretion, to be relevant to its fitness to participate in the Program;

(3) Has been indicted or otherwise formally charged with, or convicted of, a felony, or a misdemeanor which, in SBA's sole discretion, bears on its fitness to participate in the Program;

(4) Has received an adverse civil judgment that it has committed a breach of trust or a violation of a law or regulation protecting the integrity of business transactions or relationships; or

(5) Has been suspended or terminated as a Pool Assembler under 120.631.

(c) *Suspension procedures.* SBA may undertake suspension or enforcement actions under this section using the procedures set forth in § 120.1600(a).

§ 120.1712 Seller responsibilities with respect to Seller's Pool Loan.

Seller shall remain obligated for servicing and liquidating Seller's Pool Loan until the Pool Loan is repaid in full unless SBA provides written approval or notice to the contrary.

§ 120.1713 Seller's Pool Loan origination.

SBA is entitled to recover from the Seller losses incurred by SBA on its guarantee of a Pool if such losses resulted because Seller's Pool Loan was not made and closed in a commercially

reasonable manner, consistent with prudent lending standards, and in accordance with any applicable Program Rules and Regulations.

§ 120.1714 Seller's Pool Loan servicing.

Subject to § 120.1718 of this subpart J, the Seller must service Seller's Pool Loan in a commercially reasonable manner, consistent with prudent lending standards, and in accordance with applicable Program Rules and Regulations. The Seller receives the Servicing Retention Amount for servicing the Seller's Pool Loan.

§ 120.1715 Seller's Pool Loan liquidation.

Subject to § 120.1718 of this subpart J, the Seller must liquidate and conduct debt collection litigation for Seller's Pool Loan in a prompt, cost-effective and commercially reasonable manner, consistent with prudent lending standards, in accordance with applicable Program Rules and Regulations, and with SBA approval of a liquidation plan and any litigation plan, and any amendment of either such a plan, if applicable.

§ 120.1716 Required SBA approval of servicing actions.

Seller shall not, without prior written consent of SBA, take the following actions with respect to Seller's Pool Loan:

(a) Make or consent to any substantial alteration in the terms ("substantial" includes, but is not limited to, any changes to the principal amount or interest rate);

(b) Accelerate the maturity;

(c) Sue; or

(d) Waive or release any claim. Guidance on other servicing actions, some of which may need prior SBA approval, is provided in the Guide.

§ 120.1717 Seller's Pool Loan deferments.

Without the prior written consent of SBA, Seller, at the request of Obligor, may grant one deferment of Obligor's scheduled payments for a continuous period not to exceed three months of past or future installments. Seller shall immediately notify CSA of any